

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: November 21, 2008

ANALYST: Robin Kelly

- I. COMMITTEE: Myers for Congress 2008 Committee
C00444299
Alan Mills, Treasurer
1 North Illinois Street, Suite 2101
Indianapolis, IN 46204
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(2) and (4)
11 CFR §104.3(a) and (b)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

The Myers for Congress 2008 Committee ("the Committee") amended its 2008 12 Day Pre-Primary Report to disclose additional receipts totaling \$263,185.00 and additional disbursements totaling \$293,672.05 which were not disclosed in the original 2008 12 Day Pre-Primary Report (Attachment 2).

On April 23, 2008, the Committee filed its original 2008 12 Day Pre-Primary Report covering the period from April 1 through April 16, 2008 (Image 28931432296). The original report disclosed \$2,205.00 on Line 11(a)(ii) (Unitemized Contributions from Individuals), \$0.00 on Line 11(d) (Contributions from the Candidate) and \$232,251.31 on Line 17 (Operating Expenditures) of the Detailed Summary Page (Images 28931432298-99).

On July 15, 2008, the Committee filed an Amended 2008 12 Day Pre-Primary Report covering from April 1 through April 16, 2008 (Image 28932250491). The amended report disclosed \$2,285.00 on Line 11(a)(ii), \$263,105.00 on Line 11(d) and \$525,923.36 on Line 17 of the Detailed Summary Page (Images 28932250493-94).

On July 17, 2008, the Reports Analysis Division (RAD) Analyst spoke with Justin Leverton, counsel for the Committee. During this conversation the RAD Analyst told Mr. Leverton that the Committee's amended 12 Day Pre-Primary Report, received on 7/15/08, showed a substantial increase in financial activity for the reporting period. Mr. Leverton told the Analyst that a former employee had not reported all the financial activity for the reporting

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period, and the Committee has since hired a new staff member who has corrected the reports. The RAD Analyst informed Mr. Leverton that a letter would be sent to the Committee regarding the increase in financial activity and that it could warrant additional action by the Commission (Attachment 3).

On July 31, 2008, a Request for Additional Information ("RFAI") was sent to the Committee referencing the Amended 2008 12 Day Pre-Primary report, received on 7/15/08. Among other issues, the RFAI asked the Committee to clarify why this additional activity was not disclosed on the original report (Image 28039803262).

On August 19, 2008, Mr. Leverton called and spoke with the RAD Analyst. He stated that the Committee was ready to submit the information regarding the increased activity. Mr. Leverton reiterated that the activity had been missed by a former employee, who has since been replaced (Attachment 3). The Committee subsequently filed another amended 2008 12 Day Pre-Primary Report on August 19, 2008, covering from April 1 to April 16, 2008 (Image 28932482043). The amended report did not disclose any additional changes in financial activity. The Committee also filed a Miscellaneous Electronic Submission (Form 99) on the same day, which stated in full:

"This Miscellaneous Report is in response to the Federal Election Commission's Request for Additional Information dated July 31, 2008 regarding the Amended Pre-Primary Report (the "FEC letter"). Pursuant to paragraph 1 of the FEC letter, the FEC seeks clarification on the receipts and disbursements listed on the Amended Pre-Primary Report, but not on the Original Pre-Primary Report. This Report shall clarify the changes.

As previously stated in phone conversations with the RAD analyst, the campaign employed an individual to keep track of the receipts and disbursements in NGP (the software used to track contributions and expenditures and file FEC reports). During the pre-primary reporting period, this individual failed to record two contributions from the candidate and omitted several expenditures. The campaign replaced this worker with Becca Graffis. She has gone through all disbursement and contribution entries to verify their accuracy and completeness. When inaccuracies were discovered, she corrected them in NGP. The campaign subsequently filed the Amended Pre-Primary Report. Below is a summary of the contribution and disbursement changes:

Increase in Contributions-

Total net contributions listed in the Original Pre-Primary Report are \$14,055.00. Total net contributions listed in the Amended Pre-Primary Report are \$277,240.00. The difference in contribution amounts is \$263,185.00. This difference is almost entirely due to two candidate contributions not recorded in the Original Pre-Primary Report.

A \$263,105 increase in contributions is attributed to two candidate contributions that were not recorded in the original report: (a) \$255,000.00 contribution by the candidate on April 1, 2008 (transaction ID C4201238); and (b) \$8105 candidate in-kind contribution on April 15, 2008 to KITE Washington, LLC for March 2008

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and April 2008 campaign headquarters rent (transaction ID C4201156). Both of these transactions can be viewed on page 13 of the Amended Pre-Primary Report.

In the Original Pre-Primary Report, contributions from individuals other than the candidate were listed as \$14,305.00. Of these contributions, \$12,100 was itemized and \$2205 were unitemized. In the Amended Pre-Primary Report, contributions from individuals other than the candidate were listed as \$14,385.00. Of these contributions, \$12,100 was itemized and \$2285 were unitemized. Thus, itemized contributions from individuals other than the candidate were correctly listed in both reports.

Increase in Disbursements-

The previous campaign worker also failed to properly record several disbursements. Net Operating Expenses listed in the Original Pre-Primary Report are \$232,251.31. Net Operating Expenses listed in the Amended Pre-Primary Report are \$525,923.36. The difference in contribution amounts is \$293,672.05. The vast majority of the increase--\$277,605.38--is due to disbursements to Kennedy Communications, Inc. and Murphy Putnam Media, LLC that were not recorded in the Original Pre-Primary Report. The non-recorded disbursements to Kennedy Communications, Inc. totaled \$103,310.20 and were as follows: (a) \$50,141.20 on April 2, 2008 for payment for printing and distribution of direct mailing campaign material (transaction id D194992); (b) \$30,579.00 on April 15, 2008 for payment for printing and distribution of direct mailing campaign material (transaction id D194993); and (c) \$22,590.00 on April 9, 2008 for payment for printing and distribution of direct mailing campaign material (transaction ID D194995). The non-recorded disbursements to Murphy Putnam Media, LLC totaled \$174,295.18 and were as follows: (a) \$100,000.00 on April 15, 2008 for payment for media buy costs - broadcast TV, cable TV, Radio (transaction ID D187144); and (b) \$74,295.18 on April 2, 2008 for payment for creation of TV ads (transaction ID D185962).

In addition, several of the disbursements were not properly recorded as Memo Items in NGP. This has also been corrected.

To conclude, Becca Graffis has reviewed the contributions and disbursements for the Pre-Primary reporting period and has updated NGP to accurately reflect the previously unrecorded or mislabeled transactions. Should the FEC have any additional questions or concerns, please contact the candidate" (Image 28991843333).

On October 10, 2008, Mr. Leverton called to see if the Committee needed to file the 2008 October Quarterly Report. The RAD Analyst told him that they did, even though they had filed a Termination Report, since their termination request has not been approved. The RAD analyst explained that the Committee should file reports until the outstanding matter has been resolved and they receive a letter stating that the Committee has been terminated (Attachment 3).

To date, no further communication has been received from the Committee regarding this matter.

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YERS, DR. WOODROW

ID #H8IN07200

YERS FOR CONGRESS 2008 COMMITTEE

HOUSE

ID #C00444299

ills, Alan

1 North Illinois Street

Indianapolis

IN 46204

ILING FREQUENCY: QUARTERLY

ORH TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
1		N		1/28/2008	5	28039803324						
1		A		3/25/2008	4	28930998441						
MS		X		3/25/2008	1	28990698508						
MS		X		4/07/2008	1	28931062979						
MS		X		4/18/2008	1	28990675871						
MS		T		4/23/2008	1	28931432347						
MS		X		4/29/2008	1	28990950489						
MS		4		5/01/2008	2	28990953795						
MS		X		5/07/2008	1	28990988617						
MS		X		5/09/2008	1	28990998679						
MS		X		5/21/2008	1	28991145074						
MS		X		5/27/2008	1	28991194621						
MS		T		6/17/2008	2	28038750768						
MS		T		8/19/2008	1	28981843333						
RQ	Q1	2		6/24/2008	3	28038753485	1/01/2008 3/31/2008					
RQ	Q1	2		7/31/2008	3	28038803259	1/01/2008 3/31/2008					
RQ	12P	2		6/24/2008	3	28038753488	4/01/2008 4/16/2008					
RQ	12P	2		8/12/2008	3	28038803262	4/01/2008 4/16/2008					
RQ	TER	2		8/12/2008	3	28038803265	4/17/2008 7/15/2008					
3	Q1	N		4/15/2008	109	28931140518	1/01/2008 3/31/2008	0	705084	702735	2349	550000
3	Q1	A		7/15/2008	112	28981475081	1/01/2008 3/31/2008	0	713319	691268	22051	550000
3	Q1	A		8/19/2008	112	28981843340	1/01/2008 3/31/2008	0	713319	691268	22051	550000
3	12P	N	P	4/23/2008	51	28931432296	4/01/2008 4/16/2008	2349	270305	232501	40153	808000
3	12P	A	P	7/15/2008	63	28932250491	4/01/2008 4/16/2008	22051	533490	526173	29367	808000
3	12P	A	P	8/19/2008	63	28932482043	4/01/2008 4/16/2008	22051	533490	526173	29367	808000
3	TER	T		7/15/2008	164	28932250725	4/17/2008 7/15/2008	29367	1076602	1105870	0	0
3	TER	A		8/19/2008	164	28932482128	4/17/2008 8/19/2008	29367	1076602	1105870	0	0

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YERS, DR. WOODROW

ID #H8IN07200

YERS FOR CONGRESS 2008 COMMITTEE
111s, Alan
ILING FREQUENCY: QUARTERLY

1 North Illinois Street

Indianapolis

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IN 46204

ID #C00444298

ORN TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
3	TER	A		10/13/2008	164	28992387942	4/17/2008 9/30/2008	29387	1076602	1105970	0	0
TOTAL									2323411	2323411		

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Myers for Congress 2008 Committee (C000444299)
12 Day Pre-Primary Report/Amended 12 Day Pre-Primary Report

Overview of Additional Receipts

Report Line	Original 12 Day Pre-Primary Report, filed 4-23-08 (Image 28931432296)	Amended 12 Day Pre-Primary, filed 7-15-08 (Image 28932250491)	Receipts Variance Amount
Line 11(a)(ii): Individual Contributions (Unitemized)	\$2,205.00	\$2,285.00	\$80.00
Line 11(d): Candidate Contributions	\$0.00	\$263,105.00	\$263,105.00
		Total Variance	\$263,185.00

Overview of Additional Disbursements

Report Line	Original 12 Day Pre-Primary Report, filed 4-23-08 (Image 28931432296)	Disbursements: Amended 12 Day Pre-Primary Report, filed 7-15-08 (Image 28932250491)	Disbursements Variance Amount
Line 17: Operating Expenditures	\$232,251.31	\$525,923.36	\$293,672.05
		Total Variance	\$293,672.05